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FISCAL IMPACT REPORT

ORIGINAL DATE 3/20/07
 SPONSOR Park LAST UPDATED 3/22/07 HB 5/aHJC/aHFL
 SHORT TITLE Increase Domestic Violence Penalties SB _____
 ANALYST C. Sanchez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY07	FY08	FY09	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$.1	\$.1	\$.1	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

*Responses Received From

Administrative Office of the Court (AOC)
 Public Defender (PD)
 Corrections Department (CD)

*Responses received for request for analysis from the following duplicate bills introduced in the Forty-Eighth Legislature, First Session: HB 620, as amended is identical to House Bill 5.

SUMMARY

Synopsis of HFL Amendment

The House Floor amendment clarifies language relating to provisions that suspend or defer a sentence.

Synopsis of HJC Amendment

The House Judiciary Committee amendment reduces the minimum sentence for battery, against a household member, from thirty days to fifteen days for a third offense, and from six months to ninety days for a fourth offense.

Lastly, the amendment increases the minimum sentence for aggravated battery, against a household member, from forty-eight hours to seventy-two hours for a second offense.

Synopsis of Original Bill

House Bill 5 requires mandatory jail sentences and treatment after the first conviction for Battery Against a Household Member Section 30-3-15 NMSA 1978 and Aggravated Battery Against a Household Member Section 30-3-16 NMSA 1978.

Section 1: Battery Against a Household Member

Beginning with the second offense, the sentence must include mandatory jail time that cannot be suspended, deferred, or taken under advisement. See table below. The sentence must also include participation and completion of a domestic violence treatment program as defined in 34-15-2 NMSA 1978. Notwithstanding any law to the contrary, if a sentence was suspended or deferred, probation may extend up to 364 days plus 90 days.

Offense	Degree	Mandatory Jail Time
First	Misdemeanor	Not specified
Second	Misdemeanor	48 hours
Third	Misdemeanor	30 days
Fourth and subsequent	Fourth Degree Felony	6 months

Section 2: Aggravated Battery Against a Household Member NMSA 1978

Beginning with the second offense, the sentence must include mandatory jail time that cannot be suspended, deferred, or taken under advisement. See table below. The sentence must also include participation and completion of a domestic violence treatment program as defined in 34-15-2 NMSA 1978. Notwithstanding any law to the contrary, if a sentence was suspended or deferred, probation may extend up to 364 days plus 90 days.

Offense	Degree	Mandatory Jail Time
First	Misdemeanor	None
Second	Misdemeanor	48 hours
Third	Misdemeanor	30 days
Fourth and subsequent	Fourth Degree Felony	6 months

House Bill 5 requires all persons convicted of battery or aggravated battery of a household member to complete a domestic violence offender treatment program. The bill requires that this treatment program be approved the by the Children, Youth, and Families Department instead of being based on Section 34-15-2(D) NMSA 1978.

The effective date of this law is July 1, 2007.

FISCAL IMPLICATIONS

There is no appropriation in this bill. This bill will have several fiscal implications on the Corrections Department. By increasing the penalties and requiring imprisonment the number of domestic violence offenders incarcerated in New Mexico prisons is likely to increase. Because only repeat offenders are required to serve long sentences the increase is not expected to be great. Because none of the mandatory sentences exceed a year, most incarceration time served will be in County jails and not state prisons. The largest impact of this bill is likely to be felt by the Probation/Parole Division. People convicted of these crimes are likely to be supervised by the Adult Probation/Parole Division. This will increase caseloads. Extending sentences past 364 days will also increase caseloads because probationers will remain on probation for a longer period of time. The mandatory treatment provisions will increase the level of supervision in many instances. Higher supervision levels require more man-hours per probationer. Making offenses felonies instead of misdemeanors would also mandate a parole period. This will also

increase caseloads for the Probation/Parole division, which supervises parolees. Some District Courts have a special probation officer who acts under the direction of the court and not the Corrections Department. These outside probation officers will reduce some of the impact. It is also likely that some of these offenders will be placed on unsupervised probation, which will also lessen the impact on the Corrections Department.

Any fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions. There may be an increase in the amount of work that needs to be done by the courts, thus requiring additional resources to handle increase.

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

Furthermore, as is in DWI cases, more court time will be needed to prove prior convictions, leading to longer trials and the need for additional resources.

SIGNIFICANT ISSUES

This bill makes a jail time mandatory for each conviction and limits judicial sentencing discretion. Persons convicted of this offense must also successfully complete a domestic violence offender treatment program as part of their sentence. It is unknown if there are sufficient treatment programs in all regions of the state to meet this requirement.

PERFORMANCE IMPLICATIONS

The courts are participating in performance based budgeting. This bill may impact the courts' performance based budgeting measures, which may result in a need for additional resources. For example, the district court's performance measure clearance rates may be impacted if increased penalties lead to an increased demand for jury trials and fewer plea bargains, thereby increasing the amount of judge and clerk time needed to dispose of cases.

ADMINISTRATIVE IMPLICATIONS

Overall, passage of this bill is not likely to have significant performance implications for the Corrections Department or the judiciary.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo

CS/mt:csd